Bx ~~1200~~

App. F. IX-4

1935.
(Lgs)

File No. 41-35

Serial No

Previous References
L.C. 180-30.
" 179-30

Letter References.

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. One

Part B for Nov '35

SUBJECT.

Bill to remove all legal obstacles to the marriage of Hindu widows.

To

The Compiler

WD 03607—GPB—22,500—2-8-35

No. P 2023 dy 23-9-35

Directed that the above be published in the Mysore Gazette for genl. information.

S. Abdul Aziz
7.11.35

A Bill to remove all legal obstacles to the marriage of Hindu Widows.

General and Revenue Secretariat. | File No. D.149. of 193 | [App. F. III-4

D 149.

Letter dated 9th August 1935 from messrs. K. T. Bhashyam Aiyangar and T. Ramachandra, members, Mysore Legis. Council, Bangalore.

Forwards copies of the Bill to remove all legal obstacles to the marriage of Hindu Widows in the state, along with the statement of general principles of the Bill, which they intend introducing at the next session of the L.C. and requests that the general principles of the Bill may be placed before the forthcoming session of the R.A.

~~Reasons Reduced to writing of the grounds upon which the Hon'ble Messrs K. T. Bhashyam Aiyangar and T. Ramachandra consider it necessary that the above Bill should be passed~~

Messrs. K. T. Bhashyam Aiyangar and T. Ramachandra have given notice of their intention to introduce the Bill regarding the marriage of Hindu Widows at the next session of the L.C. and request that the general principles of the Bill may be placed before the Dewan Sirmad of the R. A. at the

Under Rule 6.1 of the L.C. rules of Business in the Bill the Dewan's permission for its introduction is necessary before any action can be taken on the request.

For orders if the Bill may be passed on to Prot. Br. for perusing before submission to the Dewan for the permission.

Subd.

12.8.35

(Prot. Br. with compts)

12/8/35

NOTE—Contn. Sheet.

3444

Bill to validate Marriages of Hindu Widows

File No. of 193 | General and Revenue Secretariat

The Bill proposed is based on the Govt of Madras Act XV of 1856 (The Hindu Widows Re-marriage Act). But the draft departs from the original in its attempt to create some property rights to the issue of the deceased Hindu and also some verbal alterations and the wording of Cl 6 is not clear

The correspondence as regards the Bombay Act are noted against each Clause of the Bill and the departure is also indicated

Mr. B. T. Rathnaswamy Ayyangar had brought up a representation before the D.A in June 1927 but it was not discussed (vide proceedings Volume for 1927)

Mr. C. Chennappa had brought up a resolution in the D.A in October 1929 for validating such marriages but before the Resolution was put to vote there was a motion that the Resolution was passed by a large majority only 8 voting against (vide D.A Proceedings Vol Pages 38 to 65 & 32 to 7)

Legislative 8-9-29 de

B 141.

DEWAN'S OFFICE
21 AUG 1935

In regard to the child marriage restraint bill the Dewan directed that it may be published in the Gazette for obtaining public opinion before giving permission as it was a measure of social legislation.

The Hindu Law Reform bill was also published for obtaining public opinion before Govt took up legislation.

This bill (widow remarriage bill) may perhaps be published for obtaining public opinion before giving permission

(Chief Secretary)
2nd M.)
Dewan)

15/8/35
KO
16/8

Yes

G
16/8

Jos
19/8

MS
19-8-35

KO 20.8

G
21/8

The proposed publication of the bill is not in accordance with any rule or standing order under the R. A. or L.C. Regulations. This will, if approved, be sent to the Protection Branch for further action as in the case of the child marriage restraint bill.
(Please see page 11 in the Collection that will be referenced)

21/8/35

Draft G.O. sanctioning publication of the bill in the Gazette for obtaining public opinion thereon.

For perusal before signature

Dom
23/8

Secretary)

23/8

SECOND MEMBER OF THE BILL
17 AUG. 1935
No 12 Sp.

1457
NOTE—Contn. Sheet.
29

1877/35 4

K. T. BHASHYAM AIYANGAR, B.A., B.L.
ADVOCATE

COTTONPET
BANGALORE CITY

CC
18/9/35

17th August 1935.

The Secretary,
Legislative Council,
Public Offices, Bangalore.

Sir,

Re: D. O. No. L. C. P. 1715 of 7/8-9-35.
Sub: Hindu Widow Remarriage Bill.

With reference to the above communication I have the honour to state that there is a slight error in clause 6 of the Bill as very rightly pointed out by you and your wording is what was intended by us.

I am however of opinion that clause 6 is unnecessary to be included in the Bill; and if we may be permitted to do so at this stage I would suggest the omission of that clause altogether and the renumbering of the other clauses. The clause, which was originally included in the Hindu Widow's Remarriage Act 15 of 1856 and which refers to the peculiar principle of Hindu Law prevailing in Bengal, where a childless widowed daughter was not entitled to succeed to her father, proceeded to state what in the event of such childless widowed daughter remarrying and becoming unchaste she shall not by reason only of her doing so become liable to her father. Obviously such a clause would be out of place

in Mysore where daughters inherit irrespective of their being either childless or otherwise.

The clause was automatically included when the Bill was framed - I should say copied from the British India Act. Since receiving your communication I have thought over the matter and feel that it would be not merely --- unnecessary but ridiculous to retain the clause. If you so desire I shall call at any time convenient to you.

I have the honour to be
Sir,
Yours sincerely,

K. T. Bhashyam

Member,
Legislative Council

Serial No.

Submd for orders. In the light of the above, the clause 6 may be omitted & the following clauses re numbered

Done 19/9

Yes. This might be done

Please sign

19/9

Copy of Bill & Statement of Govt Principles

SEP. 1935 SECTT.

WD 03594—GPB—30,000—13-7-35

NOTE—Contn Sheet.

Hindu Widows Marriage Bill 1872

File No. 41 of 193 5 — General and Revenue Secretariat

G.O. No P. 2023 Dt 28-9-35

The Commissioner

Directed that the Bill removing legal disabilities to the marriage of Hindu Widows ~~should~~ be published for general information

Proceedings

The Proceedings received in Enquiry put up they corrected for personal & print order

Typed 28/9

Compared & corrected 28/9

No P. 2079 Dt 25-9-35 Copy to Dr Bill

Proceedings

Printed copies Place S. in file Bill P.

D.149

OFFICE OF THE SECRETARY.
10 AUG. 1935
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL.

To

The Secretary,

Mysore Legislative Council,

BANGALORE.

Dear sir,

We enclose herewith copies of the Bill to remove all legal obstacles to the Marriage of Hindu Widows in the State, along with the statement of general principles of the Bill, which we intend introducing at the next Session of the Legislative Council.

We request the general principles of the Bill be placed before the forthcoming Sessions of the Representative Assembly.

Thanking you,

Yours sincerely,

T. Ramachandra

Bangalore City.)
)
Dated: 9th August 1935.)

A BILL TO REMOVE ALL LEGAL OBSTACLES TO THE MARRIAGE OF HINDU WIDOWS IN THE MYSORE STATE.

-00-

STATEMENT OF OBJECTS AND REASONS :

It is ~~felt~~ increasingly necessary and desirable that all legal obstacles to the marriage of Hindu Widows in the State should be removed as such a step will tend to the promotion of good morals and to the public welfare. It is also felt necessary and just that offsprings of such marriages should be held legitimate. The Bill is intended to give effect to the above intentions.

T Ramachandra

A BILL TO REMOVE ALL LEGAL OBSTACLES TO THE MARRIAGE OF OF HINDU WIDOWS IN THE MYSORE STATE.

-0-

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of good morals and to the public welfare and whereas it is just to hold offsprings of such marriages as legitimate, it is hereby enacted as follows:-

Short title, extent and commencement.

1 (i) The Regulation may be called "The Mysore Hindu Widows marriage Regulation, 193

(ii) It shall extend to the wole of the territories of Mysore.

(iii) It shall come into operation at the expiration of six months from the date of its publication in the official Gazette.

Marriage of Hindu Widows Legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid and no issue of such marriage shall be ~~xxgaxixxx~~ illegitimate by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Remarriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage shall have the same effect if spoken, performed or made on the marriage of a Hindu Widow and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to the re-marriage of a Widow.

4. A widow who has not completed her sixteenth year and whose previous marriage has not been consummated shall not remarry without the consent of her guardian in marriage in the order mentioned, viz. her father, her mother or her next male relatives.

The consent of the guardian shall be presumed until the contrary is proved.

No such marriage shall be declared void after it has been consummated in the case of a widow who has

completed her sixteenth year or whose previous marriage has been consummated. Her own consent shall be sufficient consent to constitute her remarriage lawful and valid.

Saving of rights of widow marrying.

5. Except as hereinafter provided, a widow shall not by reason of her remarriage, forfeit any property or any right to which she would otherwise be entitled; and every widow who has remarried shall have the same rights of inheritance as she would have had, had such marriage been such marriage.

A childless widow not rendered capable of inheriting.

6. Nothing contained in this Regulation shall be construed to render any widow who, at the time of the death of any person leaving any property, if, before the passing of this Regulation, she would have been incapable of inheriting the same by reason of her a childless widow.

Rights of Widow on her marriage.

6 All rights and interests which any widow may have inherited from her deceased husband shall upon her remarriage cease and determine as if if she had then died; and the next heirs of her deceased husband or other persons entitled to the property on her death shall thereupon succeed to the same.

Exception I : In the absence of such a next heir or person entitled to the property at the time of her remarriage, the property inherited from her husband shall be deemed to be her absolute property.

Exception II : Rights and interests in any property by virtue of any gift or testamentory disposition upon her only a limited estate with no power of alienating the same shall be deemed to confer upon her an absolute estate, i.e., one with power of alienating the same, unless there is an express prohibition to remarry in the terms evidencing the Gift or testimentory disposition.

Guardianship of children of deceased husband on the remarriage of his widow.

8. On the remarriage of a Hindu widow, if neither the widow nor any other person who has been expressly constituted by the will or testamentory disposition of the deceased husband the guardian of the children, she shall be entitled during their minority to have the care and custody of her children or any of them by her deceased husband until a competent Court having original Jurisdiction in civil cases in the place where the

deceased was domiciled at the time of his death shall appoint some proper person other than the mother to be her guardian on a petition by the father or the paternal grandfather or the mother or the grandmother or any male relative of the deceased husband, and in making such appointment, the said court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother, provided that when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointments shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children during their minority.

Provided also that when the widow has been expressly constituted guardian by the will or testamentory disposition of the deceased husband, no such appointment shall be made.

T Ramachandra

****

STATEMENT OF GENERAL PRINCIPLES.

Mysore has not as yet a regulation corresponding to Act IV of 1856 which legalises the re-marriage of Hindu widows and we are therefore certainly behind British India in this respect. The British Act of 1856 was the outcome of the efforts of the late Panditm Iswar Chandar Vidyasagar making it applicable to all Hindu widows who may be so minded as to re-marry in spite of the traditional interpretation of the Hindu law or custom to the contrary.

The Bill is purely a permissive measure and aims at removing legal obstacles to the remarriages of such Hindu widows as wish to remarry and at legitimising the children born of such wedlock. It endeavours to meet the growing consciousness of the educated Hindus who believe that the re-marriage of Hindu widows is not opposed to the true interpretation of the precepts of Hindu religion but is also in consonance with the principles of Justice and Equity. It does not affect the right of a Hindu Widow who is allowed to remarry by the custom of her community.

The rules of Consanguinity and Affinity under the Hindu Law are made applicable to the case of re-marriage and the widows gothram is fixed as that of her father for purposes of her remarriage. The customary marriage ceremonies generally observed in the case of the first marriage are made applicable to the remarriages. In the case of a minor widow, the consent of her guardian in marriage is made obligatory except where her first marriage had been consummated.

The right of a widow in the estate of her deceased husband ceases on her marriage and she is divested of all rights inherited from him which then pass on to the next heir of her deceased husband. In the absence of such heir, the remarried widow continues to enjoy them as her absolute estate. The rights acquired by her under gift deed or will from her deceased husband are deemed as her absolute estate unless there is a prohibition to remarry in the deed of the gift or the will

A remarried widow continues to be the guardian of her children by the first husband until a civil court appoints another person in her place as guardian at the instance of some interested person.

****

J Ramachandra

944

7

Appendix F G—1]

SUBJECT .....

.....

.....

Section

File No.

Serial No.

Diary No. of letter replied to ..... D.O.No. P 1715

To

N T Bhashyam Ayyangar Esq
Mysore

L. C

General and Revenue Secretariat

( )

the *193*

Date of issue 9.9.35

Signed by [illegible]

draft D.O. sent

Dear Sir,

In connection with the ~~Repairs~~ remarriage of Hindu Widows ~~Remarriage Bill~~ proposed by you, there is [illegible] some doubt in my mind as to whether I should be required to attend the Committee meetings in the office on any day during working hours to clean the same

List of enclosures .....

Copied by .....

Examined by .....

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

D. O. No. O. P 1715

Bangalore, Dated, 7th September 1935

Dear sir,

In connection with the Bill regarding re-marriage of widows proposed by you, I find that there is some slight error in clause 6 which reads as follows:

> "Nothing contained in this Regulation shall be construed to render any widow, who, at the time of the death of any person leaving any property if, before the passing of this Regulation, she would have been incapable of inheriting th same by reason of her a childless widow."

Some words seem to be missing and it should probably be as follows:

> "Nothing in this Act contained shall be construed to render any widow, who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if, before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow."

Kindly state if this wording may be adopted.

Yours sincerely,

K.T. Bhashyam Aiengar, Esq.,B.A.,B.L.,
Member, Mysore Legislative Council.

Draft D.O. sent

7/9

Issued P 1715 of 9.9.

FRA
12-9-35

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Order No. P 2023 Legis 41-35-1

Dated, Bangalore, 2nd September 1935.

The accompanying copy of a Bill "to remove all legal obstacles to the marriage of Hindu Widows in the Mysore State" has been received from Messrs. K.T. Bhashyam Aiyangar and T. Ramachandra with a request for permission to introduce it in the Legislative Council.

Government consider that in a matter of social legislation like this, it is desirable that opinion of the general public on the proposed Bill should be ascertained before further action is taken in the matter. Accordingly the Government are pleased to direct the publication of the Bill together with the statement of general principles underlying the Bill for general information.

Secretary to Government,
General Department.

The Compiler, Mysore Gazette,

for publication in Part IV in three successive issues in English and Kannada for the printing of 250 copies in English and Kannada and supply to this office. Final proof should be sent to this office for approval before publication.

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue ..... 23 - 9 - 1935.

Signed by ..... H.V. 6.S.D.M.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette Kannada Part ?

AS

Section Legis

File No. 41-35

Serial No. 1

Proceedings of the Government of His Highness the Maharaja of Mysore.

Reader No P 2023
dt 23-9-

The accompanying
to know
Copy of a Bill ~~for remo~~
the legal obstacles to the
marriage of Hindu Wi
in the Mysore State, has been
received from Rao Sa
Bharatiyam Ayyangar
Ramachandra with the
Order thereon—No.
a request for permission
to introduce it in the
Legislative Council
for consideration that in a
~~to This should be~~
matter of
~~a measure of~~ Social
legislation ~~similar~~ of
like this it is desirable
~~Too desirable~~ the Govt of
~~for giving~~ the Govt
~~to elicit public opinion~~
on the proposed B

should be ascertained
before ~~they~~ ~~Court may~~
they
further action in the
matter. Accordingly the
Court are pleased
to direct
~~order~~ the publication
of the Rule to-gether
with the Statement
of General Damages
made by the
Court General information

Secy to Govt
General Dept

6
2/8/34

List of Enclosure.

To

the Commissioner Mysore
for information in the
in the succeeding
cases in Eng & Kan

Copied by

for the guidance of D.C.

Examined by

Cases in Eng & Kan & supply
to this office

WD 0158—GPB—15,000—13-8-34

Final Copy should be
sent to this office for approval before publica-

Dom
23/8

NOTIFICATION.

Order No. P. 2023—Legis. 41-35-1, dated Bangalore, 23rd September 1935.

The accompanying copy of a Bill "to remove all legal obstacles to the marriage of Hindu Widows in the Mysore State" has been received from Messrs. K. T. Bhashyam Aiyangar and T. Ramachandra with a request for permission to introduce it in the Legislative Council.

Government consider that in a matter of social legislation like this, it is desirable that opinion of the general public on the proposed Bill should be ascertained before further action is taken in the matter. Accordingly the Government are pleased to direct the publication of the Bill together with the statement of general principles underlying the Bill for general information.

By Order,
H. V. RAMASVAMI,
Secretary to Government,
General Department.

A Bill to remove all Legal Obstacles to the Marriage of Hindu Widows in the Mysore State.

Whereas the removal of all legal obstacles to the marriage of Hindu Widows in the State will tend to the promotion of good morals and to the public welfare and whereas it is just to hold offsprings of such marriages as legitimate, it is hereby enacted as follows:—

Short title, extent and commencement.

1. (*i*) The Regulation may be called "The Mysore Hindu Widows Marriage Regulation, 193 "

(*ii*) It shall extend to the whole of the territories of Mysore.

(*iii*) It shall come into operation at the expiration of six months from the date of its publication in the Official Gazette.

Marriage of Hindu Widows Legalised.

2. Notwithstanding any custom and any interpretation of Hindu Law to the contrary, no marriage contracted between Hindus shall be invalid, and no issue of such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, provided that the parties must not be related to each other in any degree of consanguinity or affinity which would under Hindu Law render a marriage illegal.

Ceremonies constituting valid marriage to have effect on Widows Re-marriage.

3. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu Widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

Consent to the re-marriage of a Widow

4. A widow who has not completed her sixteenth year and whose previous marriage has not been consummated, shall not re-marry without the consent of her guardian in marriage in the order mentioned, *viz.*, her father, her mother or her next male relatives.

The consent of the guardian shall be presumed until the contrary is proved.

No such marriage shall be declared void after it has been consummated in the case of a widow who has completed her sixteenth year, or whose previous marriage has been consummated. Her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Saving of rights of widow marrying.

5 Except as hereinafter provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been such marriage.

Rights of widow on her marriage

All rights and interests which any widow may have inherited from her deceased husband shall upon her re-marriage cease and determine as if she had then died, and the next heirs of her deceased husband or

other persons entitled to the property on her death shall thereupon succeed to the same.

Exception I.—In the absence of such a next heir or person entitled to the property at the time of her re-marriage, the property inherited from her husband shall be deemed to be her absolute property.

Exception II.—Rights and interests in any property by virtue of any gift or testamentory disposition upon her only a limited estate with no power of alienating the same shall be deemed to confer upon her an absolute estate; *i.e.*, one with power of alienating the same, unless there is an express prohibition to re-marry in the terms evidencing the gift or testamentory disposition.

Guardianship of children of deceased husband on the re-marriage of his widow.

7. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentory disposition of the deceased husband the guardian of the children, she shall be entitled during their minority to have the care and custody of her children or any of them by her deceased husband until a competent Court having original Jurisdiction in civil cases in the place where the deceased was domiciled at the time of his death shall appoint some proper person other than the mother to be guardian on a petition by the father or the paternal grandfather or the mother or the grandmother or any male relative of the deceased husband, and in making such appointment, the said court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother,

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointments shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children during their minority.

Provided also that when the widow has been expressly constituted guardian by the will or testamentory disposition of the deceased husband no such appointment shall be made.

Statement of General Principles.

Mysore has not as yet a regulation corresponding to Act XV of 1856 which legalises the re-marriage of Hindu

widows and we are therefore certainly behind British India in this respect. The British Act of 1856 was the outcome of the efforts of the late Pandit Iswar Chandar Vidyasagar making it applicable to all Hindu widows who may be so minded as to re-marry in spite of the traditional interpretation of the Hindu law or custom to the contrary.

The Bill is purely a permissive measure and aims at removing legal obstacles to the re-marriages of such Hindu widows as wish to re-marry and at legitimising the children born of such wedlock. It endeavours to meet the growing conciousness of the educated Hindus who believe that the re-marriage of Hindu widows is not opposed to the true interpretation of the precepts of Hindu religion but is also in consonance with the principles of Justice and Equity. It does not affect the right of a Hindu widow who is allowed to re-marry by the custom of her community.

The rules of Consanguinity and Affinity under the Hindu Law are made applicable to the case of re-marriage and the widows gothram is fixed as that of her father for purposes of her re-marriage. The customary marriage ceremonies generally observed in the case of the first marriage are made applicable to the re-marriages. In the case of a minor widow, the consent of her guardian in marriage is made obligatorv except where her first marriage had been consummated.

The right of a widow in the estate of her deceased husband ceases on her marriage and she is divested of all rights inherited from him which then pass on to the next heir of her deceased husband. In the absence of such heir, the re-married widow continues to enjoy them as her absolute estate. The rights acquired by her under gift deed or will from her deceased husband are deemed as her absolute estate unless there is a prohibition to re-marry in the deed of the gift or the will.

A re-married widow continues to be the guardian of her children by the first husband until a civil court appoints another person in her place as guardian at the instance of some interested person.

Printed by the Superintendent at the Government Press, Bangalore